

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT WARD GARRISON,

Plaintiff,

v.

DOUGLAS WADDINGTON, *et al.*,

Defendants.

Case No. C05-5487RJB

ORDER

This matter comes before the Court on Plaintiff's Motion for a Second Review of Rulings in Re: Motion to Compel; or in the Alternative, Notice of an Appeal. Dkt. 50. The Court has considered the pleadings filed in support of the motion, and the remainder of the file herein.

I. FACTS

On July 15, 2005, pro se Plaintiff, a prisoner, filed a complaint pursuant to 42 U.S.C. § 1983. Dkt. 1. A Scheduling Order was issued December 15, 2005, setting the discovery cutoff date for June 17, 2006. Dkt. 24. On May 17, 2006, Plaintiff filed a Motion to Compel Discovery. Dkt. 26. Plaintiff alleged to have mailed a copy of discovery requests to Defendants' counsel on February 12, 2006. *Id.* Plaintiff acknowledges that he did not use the prison legal mail system. *Id.* He attaches a copy of the discovery requests to his motion, but failed to provide a certificate of service. *Id.* Plaintiff alleged that he wrote Defendants' counsel in April 2006 regarding the outstanding discovery requests. *Id.* Defendants deny receipt of any such discovery requests. Dkt. 27.

On June 19, 2006, U.S. Magistrate Judge, Karen L. Strombom, denied Plaintiff's Motion to

1 Compel, stating Plaintiff's motion should be denied because he did not provide any evidence that
2 Defendants' counsel received the discovery requests and failed to confer with opposing counsel pursuant
3 to Local Fed. R. Civ. Pro. 37(a)(2). Plaintiff's Motion for Reconsideration was denied. Dkt. 35.

4 On July 27, 2006 and August 3, 2006, Plaintiff appealed the decision to deny his motion for
5 reconsideration of his motion to compel discovery. Dkts. 39 and 40. Plaintiff provided a declaration that
6 he mailed the discovery requests, and argues that his April 2006 letter should be considered as fulfilling the
7 meet and confer requirements of Local Fed. R. Civ. Pro. 37(a)(2). Dkt. 40. Plaintiff's motions were
8 construed as a motion for review under Fed. R. Civ. P. 72(a). Dkt. 41. On August 15, 2006, Plaintiff's
9 motions were denied as he failed to show that Judge Strombom's Order Denying Plaintiff's Motion for
10 Reconsideration was "clearly erroneous or contrary to law," as required under Rule 72(a), and because he
11 failed to meet his burden under Local Rule CR 7(h). *Id.*

12 Plaintiff again moves for a review the "rulings" regarding his original motion to compel (Dkt. 26).
13 Dkt. 50.

14 II. DISCUSSION

15 To the extent Plaintiff is moving for reconsideration of this Court's order on his appeal of Judge
16 Strombom's orders regarding his motion to compel, his motion should be denied. Under Local Fed. R.
17 Civ. P. 7(h)(2), motions for reconsideration must be filed within ten judicial days following the order to
18 which it relates. Plaintiff motion for a second review of this Court's order of his appeal of Judge
19 Strombom's orders regarding Plaintiff's motion to compel should be denied as untimely pursuant to Local
20 Rule 7(h)(2). Plaintiff filed this motion on September 15, 2006. Dkt. 50. This Court's order was filed
21 August 15, 2006. Dkt. 41.

22 Even if Plaintiff's motion was timely, it should be denied. Local Fed. R. Civ. P. 7(h) provides, in
23 relevant part, as follows:

24 Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the
25 absence of a showing of manifest error in the prior ruling or a showing of new facts or legal
authority which could not have been brought to its attention earlier with reasonable diligence.

26 Plaintiff failed to meet his burden under Local Rule CR 7(h). Plaintiff did not show a manifest error in the
27 prior rulings, or new facts or legal authority which could not have been brought to the Court's attention
28 earlier with reasonable diligence.

